EXHIBIT C

1	IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
2	FOR THE MIDDLE DISTRICT OF PENNSTLVANIA
3	The ESTATE OF JOHN HELBING by : NO. 1:10-CV-1117 SANDRA HELBING and ALLISON LIST, :
4	Personal Representatives, :
5	Plaintiffs,
6	VS
7	WYNDHAM HOTELS AND RESORTS, LLC, :
8	Defendant.
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12	Deposition of: MICHAEL MYERS
13	Taken by : Plaintiffs
14	Date : October 4, 2010, 10:20 a.m.
15	Place : Wyndham Gettysburg
16	Lincoln Meeting Room 95 Presidential Circle
17	Gettysburg, Pennsylvania
18	Before : Lucinda K. Love Reporter, Notary Public
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23	cindylove@comcast.net Serving South Central Pennsylvania
24	717.578.2197
-	

1	APPEARANCES:
2	RICHARD OARE, ESQUIRE 1434 South George Street
3	York, Pennsylvania 17403 717.846.3000
4	For Plaintiffs
5	POST & SCHELL, P.C.
6	By: MARC H. PERRY, ESQUIRE Four Penn Center
7	1600 John F. Kennedy Boulevard Philadelphia, Pennsylvania 19103
8	215.587.1000
9	For Defendant
10	ALSO PRESENT:
11	SANDRA HELBING
12	ALLISON LIST
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MR. OARE: Off the record.

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(whereupon discussion was held off the record.)

BY MR. OARE:

- Q. So tell me what you know about this particular incident? What happened on the morning of February 1st, 2008 when you came in to work?
- A. I was already on duty working the desk, a slow morning because in February our hotel is not very busy, standing more in front of the front desk area, not behind it. A lady came walking through, a lady and a gentleman came walking through the front entrance, made the statement, My husband just fell out front. I'm not quite sure what else was said, probably are you going to check that or are you --
- q. I only want you to tell me what you recollect because anything beyond that, you're just speculating or guessing. Right? And I don't want you to sit here and tell me well, this is what I would have done or should have done or could have done. I want you to tell me what you remember. Let's start with that. Just tell me what you

remember?

- A. So the statement was made, my husband just fell out front. It asked and replied if they needed help, if they needed medical attention, if they were okay. They continued to walk away from me as I was asking those questions. And at that point the conversation ended. They walked away.
- Q. Let's just stop there and let's deal with that. What did you see with respect to your recollection of Mr. Helbing and his condition?

MR. PERRY: I'm going to just object as to form, Richard. The conditions are --

13 BY MR. OARE:

- Q. Let me rephrase it and be more crisp. What did you observe of Mr. Helbing's condition? What was his appearance, as you recollect that incident?
 - A. In what way?
- Q. Well, was he standing?

MR. PERRY: Can we just go off the record for a second.

(Whereupon discussion was held off the record.)

I observed the parking lot, the blacktop 1 Α. 2 driveways. What was the condition of the blacktop 3 Q. walkway into the -- or driveways into the hotel 4 portico, as you recollect? 5 I saw blacktop. 6 Α. Did you walk on it? 7 Q. 8 Α. Yes. And what was the condition as you walked 9 Q. 10 on it? It was clear. 11 Α. 12 It was clear. Was it slippery or was it Q. smooth or was it rough, as you recall? 13 It was not slippery. 14 Α. And you returned to, what did you do after 15 Q. that? 16 I then went back into the hotel. 17 Α. And then what did you with respect to this 18 Q. incident? 19 Filled out an incident report. 20 Α. And do we have that here as Exhibit 21 Q. Number 2, I believe. I'm going to show you. 22 23 it's a form that at the top reads 'Wyndham Gettysburg, Report of Incident'. Is that the same 24

on the same page?

A. Are you asking if the courtyard has a

Q. Why don't you tell me -- the diagram that we have maybe would be helpful if you could just tell where is the Marriott, where is the Wyndham. This purple and orange doesn't do us any good because we got a black and white document. Maybe if you labeled the Marriott and the Wyndham, we could get some orientation and I wouldn't be struggling and you wouldn't be struggling.

MR. PERRY: Can we take a short break?

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porte-cochere?

(Whereupon recess was taken.)

15 BY MR. OARE:

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- Q. You didn't take photographs. Correct?
- 17 A. Correct.
 - Q. Because you didn't know where the incident had occurred?
 - A. Correct.
 - Q. Do you recall what the weather was like that morning?
 - A. Cloudy.
- Q. Did you fill out any questions on this

questionnaire regarding the weather conditions?

- A. Conditions at time of incident.
- Q. All right. And you have checked off what?
- A. I have checked off as day.
- Q. And then over to the far right?
- A. I have checked off ice.

- Q. So that would indicate what?
- A. That would indicate that on the ground, grassy areas, was a little bit of ice and snow left over from previous days.
- Q. Now, it's February 1st, 2008. You drove in that day. What is your recollection of your drive in to work that morning?
- A. I had no problems, drove in to work, walked across the employee parking lot with no problems.
- Q. Now, under the description, I took you out of context down to the conditions at the time. But there is a whole block above that under the block 'why, description of the incident'. Now, you filled that out. Is that correct?
 - A. The top portion.
- Q. Why don't you tell us what you filled out?

- A. No. I'm sorry. Back up. You can, in the hotel business, we provide a receipt under the door the morning of the checkout.
 - Q. I know. I hate that time of day.
- A. So this can be generated at that time as well and anytime after. I could go print this today if we had to.
- Q. So that last sentence where it reads

 Mr. Myers informed us that the claimant and his wife

 checked out of the hotel at 12 p.m. the same day

 without mentioning the incident again. Correct?
- A. That is a correct statement. I would add more to that.
 - Q. Go ahead. Add more?
- A. I do not recall them coming to the front desk to check out. Guests of the hotel do not have to come to the front desk to check out. On the day of, you know, when their departure date is, they can just leave the hotel. So my statement there is more of a vague statement that they did not come down to the desk to check out. And referencing the 12 p.m., because that is our time of checkout. So anytime up to that point and after, I do not recall if -- I do not believe they came down to the front desk to

check out.

- Q. So you don't know who checked out, whether it was Mr. or Mrs. Helbing, and you don't know when. You just know that the Helbings left the hotel and that they didn't -- no one, either Mrs. or Mr. Helbing mentioned anything about the incident again?
 - A. Correct.
- Q. Then under the 'loss location', it indicates, again, these are statements that the adjusters are attributing to you, Mr. Myers stated after the claimant had walked away he, he, meaning you, I would assume, stepped outside and was thoroughly checking the asphalt and brick area. Is that correct?
 - A. Sure.
- Q. So you told the adjusters, After they reported to me I walked outside and I looked around?
 - A. Correct.
- Q. Mr. Myers stated that the brick area is covered and that the asphalt is more than likely where the claimant had fallen. You already told us you don't know exactly where he fell?

EXHIBIT D

ČL (fin	AA	/I <i>A</i>) , N	AT(OLC	GIC	CA	LLE L DA	TA	OC A	XL	Station Location: Y Lat. 39.918 I Elevation(Ground): 4	ORI .on	K , P 2 76.87	4										
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a T	Т		Ĺ	Dep From Normal	Avg. Dew pt.	Avg Wet Bult	Heating	Cooling	Sunrise LST	Sunset LST		UTC	UTC	LST	2400 LST Water Equiv	Avg. Station	Avg. Sea Level	Resultant Speed	Res Dir	Avg. Speed	ma: 5-seco Speed	ond	max 2-minu speed I	nte t
1 :	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23		25 20
01 4	1	32	37	М	30	34	28	0	-	-	RA FZRA BR	М	М	M	1.99	29.59	30,06	1,4	05	7.5	26	240	18 2	50 0

U.S. Department of Commerce National Oceanic & Atmospheric Administration

QUALITY CONTROLLED LOCAL CLIMATOLOGICAL DATA (final) HOURLY OBSERVATIONS TABLE YORK AIRPORT (93778) YORK, PA

(02/2008)

National Climatic Data Center Federal Building 151 Patton Avenue Asheville, North Carolina 28801

Elevation: 472 ft. above sea level

Latitude: 39.918 Longitude: -76.874 Data Version: VER2

П		a:	01.	h # - 55-114.	354-4b	Dry Bulb	Ī	Wet Bulb		ew oint	Rel	Wind	186-4	Wind	Station	<u></u>	Net	Sea	<u></u>	Precip.	Alti-
Date	Time (LST)	Station Type	Sky Conditions	Visibility (SM)	Weather Type	Temp	···•	Temp	Te	amp		Speed (MPH)	Wind Dir	Gusts (MPH)	Pressure	Press Tend	3-hr Chg		Report Type	Total (in)	meter (in, hg)
-	-,-	3	4	5	6	(F) (C 7 B	-	F) (C) 9 10		(C) 12	13	14	15	16	17	18	(mb) 19	(in. hg) 20	21	22	23
	2 0053	12	# BKN050 OVC120	10.00	3	32 0.0		7 -2.5	18	-7.8	56	6	110		29.94	8	019	30.48	AA		30.46
01	0153	12	OVC048	10.00		33 0.0	3 2	8 -2.3	17	-8.3	52	5 7	130		29.93			30.47	AA		30.45
		12 12	OVC044 BKN022 OVC040	10.00 10.00		33 0.6 34 1.0) 2	28 -2.2 9 -1.4	18 21	-7.8 -6.0	59	5	090 070		29.88 29.82			30.42 M	AA SP	:	30,40 30,34
01	0353	12	BKN022 OVC040	10,00	E-TIDA	33 0.6 32 0.0	3 2	9 -1.7	21	-6.1 -4.0	61	6 7	090			8	040	30,36 M	AA		30,34 30,31
		12 12	OVC020 OVC020	7,00 4,00	FZRA FZRA	32 0.0	ola Sla	9 -1.4 30 -1.2 30 -1.0	26	-3.3	79	8	100 090		29.79 29.78			30.32	SP AA	0,03	30.30
		12	OVC018 OVC018	6,00 10.00	-FZRA UP	32 0.0 32 0.0	13	30 -1.0 30 -1.0	27	-3.0 -3.0			080 070		29,76 29,75			M M	SP SP	'	30,28 30,27
01	0549	12 12	OVC016	7.00	-FZRA	34 1.0	οla	31 -0.3	27	-3.0	76	9	OBO		29.73			M	SP		30.25
		12 12	OVC016 OVC014	6.00 4.00	-FZRA FZRA	33 0.0 34 1.0	3 3	31 -0.4 32 -0.1	28	-2.2 -2.0			070 000		29,73 29,75			30.27 M	AA SP	0.02	30.25 30.27
01	0615	12	OVC014	2.00	FZRA BR	34 1.0	ole	32 -0.1	28	-2.0	79	0	000		29.77			М	SP		30.29
		12 12	OVC014 OVC014	2.50 2.50	FZRA BR FZRA BR	34 1.0 33 0.0		32 -0.1 32 -0.0	28 30	-2.0 -1.1		3 0	040 000		29.77 29.76	5	006	M 30.31	SP AA	0.23	30.29 30.28
01	0701	12	OVC014	2.50	+RA BR	34 1.0	0 2	32 0.2	30	-1.0	85	6	070	i I	29.75	ľ	000	M	SP	0.20	30.27
		12 12	BKN014 OVC045 BKN014 BKN023 OVC043	4.00 4.00	-RA BR FZRA BR	34 1.0		32 -0.1 32 0.2	28 30	-2.0 -1.0		13 11	070 : 060		29.72 29.71			M	SP SP	l	30.24 30.23
01	0738	12	SCT007 BKN014 OVC023	3.00	FZRA BR	34 1.0	٥la	32 0,2	30	-1.0	85	10	060	[29.71			M	SP.	[30,23
		12 12	BKN007 BKN014 OVC023 BKN007 OVC014	2.50 3.00	FZRA BR FZRA BR	34 1.0		32 0.2 32 0.2	30 30	-1.0 -1.0			070 070		29.69 29.68			M M	SP SP		30,21 30,20
01	0753	12	BKN007 OVC014	3.00	FZRA BR	33 0.6	3 3	32 -0.0	30	-1.1	89	13	070		29,68			30.22	AA	0.12	30.20
		12 12	BKN007 OVC014 BKN007 OVC014	2.50 1.75	FZRA BR FZRA BR	34 1.0 34 1.0	3	32 0.2 32 0.2	30 30	-1.0 -1.0			070 060		29,67 29,66			M M	SP SP		30.19 30.18
01	0840	12	OVC007	1.75	+RA BR	34 1.0	3	32 0.2	30 31		85	0	000 040		29.69 29.67			M	SP		30.21
		12 12	BKN007 OVC013 BKN007 OVC013	1.25 2.00	+RA BR RA BR	34 1. 34 1.		33 0.4 32 0.2	30	-1.0	85	0	000		29.67			30.21 M	AA SP	0.22	30.19 30.19
01	0920	12	SCT007 OVC013	2.00	+RA BR	34 1.0 34 1.0		32 0.2 32 0.2	30 30				050 070		29.64 29.61			M M	SP SP	[30.16 30.13
01 01		12 12	OVC013 FEW005 OVC013	2.50 3.00	-RA BR -RA BR	34 1.0	0 3	3,0,6	32		92	8	050		29.60			M	SP	[30.13
01		12	FEW005 BKN010 OVC015	3.00 2.50	-RA BR RA BR		1 3		32 30	0,0 -1.0		9 8	060 050		29.59 29.59	6	057	30.14 M	AA SP	0,12	30,11 30,11
01 01		12 12	SCT005 SCT010 OVC015 SCT005 OVC013	2.00	RA BR	34 1.0	0 3	3.0.6	32	0.0	92	6	050		29.60			М	SP	1	30,12
01 01		12 12	BKN005 OVC013 BKN005 OVC010	2.50 4.00	RA BR -RA BR		2 3	3.0.6 3.0.6	32 32		92 92		070 020		29.59 29.59			M M	SP SP		30.11 30.11
01	1034	12	OVC005	2.00	+RA BR	34 1.0	ola	3,0	32	0,0	92	5	040		29.58			М	SP		30.10
01 01	1042 1051	12 12	OVC005 OVC005	1.50 2.00	RA BR -RA BR				32 32	0,0	92 92	5 7	040 050		29.56 29.55			M M	SP SP	[:	30,08 30,07
01	1053	12	OVC005	1.75	-RA BR	34 1.	1 3	3.0 8	32	0.0	92	6	050		29.54			30.09	AA	0.09	30.06
01 01		12 12	OVC005 BKN003 OVC009	2,00 1,75	-RA BR -RA BR	34 1.6 36 2.6		33 0.6 34 1.3	32 32	0.0	92 85	9 6	060 070		29,52 29,49			M	SP SP		30.03 30.01
01	1132	12	OVC003	2.00	RA BR	36 2.0	0[3	1.3	32	0.0	85	8	070		29,49			M	SP		30.01
	1151 1153	12 12	OVC003	1.25 1.25	RA BR RA BR	36 2.0 35 1.1	7 3	34 1.3 34 0.9	32 32	0.0 0.0	85 89	8 7	070 070		29.47 29.47			M 30.00	SP AA	0.05	29.98 29.98
01	1214	12	OVC005	1.00	+RA BR	36 2.0	οįs	35 1.7	34 34		92	3 0	040 000		29.45 29.45			M M	SP SP		29.97
01 01		12 12	OVC005 BKN003 OVC007	1.50 1.50	-RA BR RA BR	36 2.0	oĮβ	35 1.7 34 1.3	32		85	5	050		29.41			M	SP		29.97 29.92
01	1253	12	OVC003 OVC003	1.50 0.75	+RA BR +RA BR	35 1.1	7 3	34 1,2	33 34	0,6 1,0	92	6 6	060 070		29.39 29.34	8	025	29.92 M	AA SP	0,22	29,91 29,85
01 01	1332	12 12	OVC003	1.00	+RA BR	37 3.0	3	37 2.5	36	2.0	96	8	080		29.34			M	SP		29.85
01 01		12 12	OVC003 OVC003	1,50 1,00	+RA BR +RA BR	37 3.0		7 2.5 7 2.5	36 36		96 96	6 8	060 060		29.33 29,31			M M	SP SP		29.84 29.82
01	1353	12	OVC003	1.00	+RA BR	37 2.8	8 3	36 2.3	35	1.7	93	8 7	060		29.31			29.84	AA	0.33	29.82
01 01		12 12	OVC003 SCT003 BKN007 OVC012	1.50 1.50	+RA BR RA BR	37 3.0 39 4.0		37 2.5 38 3.4	36 37		96 93	6 7	050 080		29.29 29.24			M M	SP SP		29.80 29.75
01	1451	12	BKN005 OVC012	1.75	RA BR	39 4.0	0[3	38 3,4	37	3,0	93	8	070		29.24			М	SP		29.75
D1 01		12 12	BKN005 OVC012 OVC003	1.75 1.50	RA BR RA BR	40 4.4	3 3	39 3.9 39 4.0	38 37		93 86	7 7	070 080		29.24 29.21			29,77 M	AA SP	0.27	29.75 29.72
01	1553	12	OVC003	1,50	RA BR	41 5.0	3 4	10 4.5	39		93	7 7	080			6	067	29,72	AA	0.22	29.71
01 01		12 12		2.00 1.50	-RA BR -RA BR	41 5.0 41 5.0	0 4	0 4.5	39	4.0 4.0	93 93	3 9	070 260		29.19 29.22			M M	SP SP		29.70 29.73
01	1621	12	BKN003 BKN008 OVC013	2.50		39 4.0		8 3.4	37	3.0	93	14	260	21	29.23 29.22			М	SP SP		29.74 29.73
01	1627 1653	12		1.75	PRA BR BR	37 2.8	8 3	36 2.3	35	1.7	93	10	300		29.22			29.75	AA	0.05	29.73
01	1709	12	OVC003	2.00	BR BR	37 3.0	Q P	7 2.5	36 36	2.0	96 98	5	260 270		29.23 29,23			M	SP SP		29.74 29.74
01	1717 1729	12		4,00	BR BR	37 3.0	ő	7 2.5	36	2.0	96	9	260		29,25			М `	SP		29.76
101	1738 1753	12	SCT003 OVC017 FEW004 BKN017 OVC025	7,00		37 3.0		37 2.5	36 34	2.0	96 89	8	270 290		29.25 29.25				SP AA		29.76 29.76
01	1812 1853	12	FEW004 SCT025	10.00		36 2.0	ğ	35 1.7	34	1.0	92	3	260		29.24			M	SP		29.75
01 01	1853 1953	12	FEW005 BKN080 BKN095 OVC085	7.00 10.00		35 1.7	7 3	4 1.2	33 33	0.6 0.6	92 89	9 8 7 3 5	290 280		29.27 29.30	1	024		AA AA		29.78 29.81
01	2053	12	SCT070 QVC080	10.00		39 4.0 37 3.0 37 3.0 37 3.0 37 3.0 37 3.0 37 3.0 36 2.0 35 1 36 2.0 40 4.4	4 3	7 3.0	34	1.1	79	8	240		29.33			29.86	AA		29,84
01 01 01	2153 2253	12	FEW030 BKN065 OVC085 SCT041 OVC090	10.00 10.00	-RA	40 4.4 39 3.9 39 3.9		5/ [2.8 36 [2.0	33 31	0,6 -0,6	76 73	13 16	260 250	18 24	29.38 29.39	3	037	29,91 29,93	AA AA		29.89 29.91
01	2353		BKN044	10,00		39 3.9	9 3	5 1.6	29	-1.7	67	11	270		29,44		L		AA		29.96

Dynamically generated Wed Aug 18 09:49:32 EDT 2010 via http://cdo.ncdc.noaa.gov/qclcd/QCLCD

U.S. Department of Commerce National Oceanic & Atmospheric Administration

QUALITY CONTROLLED LOCAL CLIMATOLOGICAL DATA (final) HOURLY REMARKS OBSERVATIONS

National Climatic Data Center Federal Building 151 Patton Avenue Asheville, North Carolina 28801

URLY REMARKS OBSERVATIOI TABLE YORK AIRPORT (93778) YORK , PA (02/2008)

Elevation: 472 ft. above sea level

Latitude: 39.918 Longitude: -76.874 Data Version: VER2

Date	Time	Remarks
01	0053	AO2 SLP321 T00001078 10006 21044 58019
01		AO2 SLP319 T00061083
		AO2 SLP300 T00061078
01		AO2 FIBI
01		AO2 SLP280 T00061061 58040
01		AO2 RAB16E37FZRAB37 P0000
01 01		AO2 RAB16E37FZRAB37 SLP268 P0003 T00001033 AO2 PRESFR P0000
01		AO2 PRESER PUBLIC AO2 UPB20FZRAE20 P0000
01		AO2 UPB20E40RAB40E43FZRAE20B43 P0001
01		AO2 UPB20E40RAB40E43FZRAE20B43 SLP249 P0002 T00061022
01	0604	AO2 P0001
01		AO2 P0005
01		AO2 P0013
01		AO2 SLP263 P0020 60025 70025 T00061011 10006 20000 55006
01 01		AO2 RAB1155FZRAE1155 P0003
01		AO2 RAB1155FZRAE1155 P0005 AO2 RAB1155E22FZRAE1155B22 P0007
01		AO2 RAB1155E22FZRAE1155B22 P0010
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01		AO2 VIS 1 1/4V3 CIG 004V010 P0007
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		AO2 P 0007 AO2 P 0010
		AO2 P0011 FIBI
		AO2 CIG 009V012 PRESFR SLP205 P0011 60047 T00110000 56057
		AO2 P0001
		AO2 P0002
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		AO2 P0005
		AO2 VIS 1 1/4V4 P0008
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		AO2 CIG 003V006 PRESFR P0001
		AO2 CIG 003V007 PRESFR P0001
		AO2 CIG 003V008 P0002
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		AO2 CIG 002V008 P0007
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		AO2 P0019
		AO2 P0023
		AO2 PRESFR P0029 FIBI
		AO2 PRESFR SLP105 P0030 T00280017
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		AO2 P0028 FIBI AO2 SLP081 P0028 T00440033
		AO2 SEP081 P0028 100440033 AO2 CIG 002V006 P0017
		AO2 SLP065 P0024 60082 T00500039 56067
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1609 AO2 P0003
1616 AO2 PRESRR P0003
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       1621 AO2 PRESRR P0004
       1627 AO2 P0006
1653 AO2 RAE50UPB47E49 SLP075 P0006 T00280017
      1709 AO2
1717 AO2
1729 AO2
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       1738 AO2
1753 AO2 SLP083 T00280011
       1812 AO2
1853 AO2 SLP089 60088 T00170006 10050 20017 51024
1953 AO2 SLP100 T00220006
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01
       2053 AO2 SLP112 T00440011
2153 AO2 RAB42 SLP127 P0000 60000 T00440006 53037
01
01
01
       2253 AO2 RAE10 SLP135 P0001 T00391006
               AO2 SLP151 T00391017 400500000
       2353
```

Dynamically generated Wed Aug 18 09:51:02 EDT 2010 via http://cdo.ncdc.noaa.gov/qclcd/QCLCD

U.S. Department of Commerce National Oceanic & Atmospheric Administration Data Version: VER2

QUALITY CONTROLLED LOCAL CLIMATOLOGICAL DATA (final)

National Climatic Data Center Federal Building 151 Patton Avenue Asheville, North Carolina 28801

HOURLY PRECIPITATION TABLE YORK AIRPORT (93778) YORK , PA (02/2008)

	A.M. HOUR(L.S.T) ENDING AT														P. N	/l. l	10	UR	(L.	S.T) E	NE	ONIC	3 A.	Т	
DT	1	-2-	3	4	5	6	7	8	9	10	11	12	DT	1	2	3	-4	5	6	7	8	9	10	11	12	DT
01					0.03	0.02	0.23	0.12	0.22	0.12	0.09	0.06	01	0.22	0.33	0.27	0.22	0.05					Т	0.01		01